

THE HIGH COURT OF JUDICATURE AT BOMBAY,
BENCH AT AURANGABAD.

FIRST APPEAL NO. 529 OF 2002

Deelip S/o Shrirang Gundap,
Aged 26 years, Occu. Nil,
R/o C/o Babasaheb Jamge,
New Mondha, Gangakhed,
District Parbhani.

... APPELLANT
(Original Claimant)

VERSUS

1. Babubhai S/o Bhaichand Patel,
Bhandu Galli Belgum,
Dist. Belgum,
(Karnataka State) Pin Code 590006.
2. Manager,
National Insurance Co. Ltd.,
Branch Belgum, Tq. and District
Belgum, (Karnataka State)
Pin Code 590 006.

... RESPONDENTS
(Original Respondents)

...
Mr. S. V. Warad, Advocate for Appellant.
...

CORAM : **V. K. JADHAV, J.**
DATE : 24th April, 2017.

ORAL JUDGMENT:

. Being aggrieved by the judgment and award passed by
the learned Member of the Motor Accident Claims Tribunal, Parbhani

dated 30th March, 2001 in MACP No.224 of 1997, the original Claimant has preferred this appeal to the extent of quantum of compensation.

2 The learned counsel for the Appellant / original Claimant submits that though the Tribunal has considered the permanent disablement sustained by the Claimant and observed that the said permanent disablement has affected the earning capacity of the Claimant to the extent of 50%, while calculating the quantum of compensation, erroneously applied the multiplier 16 instead of 18. The learned counsel submits that the driving licence of Appellant / Claimant is produced on record and the same is marked as Exhibit 21 wherein the date of birth is mentioned as 1st January, 1977 and as such, the Claimant was 18 years of age on the date of accident.

3 None appears for Respondent Nos.1 and 2 though duly served.

4 On perusal of the judgment and award passed by the Tribunal most particularly para 17, it appears that even though the driving licence of the Appellant / Claimant is produced on record

marked as Exhibit 21 wherein his date of birth is mentioned as 1st January, 1977, the Tribunal has erroneously applied the multiplier 16 instead of 18. The learned counsel for the Appellant / Claimant has restricted his submissions to that extent only. So far as the finding recorded by the Tribunal to the extent of negligence on the part of the Claimant at 50% and further loss of earning capacity to the extent of 50%, the learned counsel for the Appellant / Claimant has not disputed the same.

5 It appears from the observations of the Tribunal in para 17 of the judgment that the learned Member of the Tribunal has wrongly applied multiplier 16 instead of 18. The learned Member of the Tribunal has considered the monthly loss of income to the tune of Rs.750/-. If multiplier 18 is applied then the compensation under the head of loss of future income comes to Rs.1,62,000/-. The learned Member of the Tribunal has awarded just and reasonable compensation under the other heads. In view of the same, the total compensation worked out at Rs.2,12,000/- and the Appellant / Claimant is entitled to the extent of 50% of the same and as such, the Claimant is entitled for the total compensation of Rs.1,06,000/-.

Consequently, the judgment and award passed by the Tribunal requires modification. Hence, the following order:

ORDER

- I. The appeal, is hereby partly allowed with proportionate costs.
- II. The judgment and award passed by the learned Member of the Motor Accident Claims Tribunal, Parbhani dated 30th March, 2001 in MACP No.224 of 1997, is hereby modified in the following manner:

“Respondent Nos.1 and 2 do jointly and severally pay Rs.1,06,000/- (Rupees One Lac and Six Thousand Only) as compensation on the principle of fault to the Claimant with interest at the rate of 9% per annum from the date of petition i.e. 18th August, 1997 till realization of the entire amount.”
- III. Rest of the judgment and award stands confirmed.
- IV. Award be drawn up as per the above modification.

- V. Needless to say that if any amount is paid as per the judgment and award passed by the Tribunal, the same shall be the part of the above modified award.
- VI. The appeal is accordingly disposed of.

[V. K. JADHAV, J.]

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